

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STARELLEN CARTER and
CINNAMON PIERCE,

Plaintiffs,
v.

Civil Action No. 12-11091
HONORABLE DENISE PAGE HOOD

OAKLAND COUNTY PROBATION
DEPARTMENT,

Defendant.

ORDER ACCEPTING REPORT AND RECOMMENDATION,
ORDER GRANTING MOTION TO DISMISS BY DEFENDANT,
ORDER DISMISSING ACTION
and
ORDER DENYING ANY APPEAL IN FORMA PAUPERIS

This matter is before the Court on Magistrate Judge Mark A. Randon's Report and Recommendation filed October 5, 2012 [Doc. # 15]. The time to file Objections has passed and no Objections to the Report and Recommendation have been filed to date.

The standard of review by the district court when examining a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court "shall make a *de novo* determination of those portions of the report or the specified proposed findings or recommendations to which an objection is made." 28 U.S.C. § 636(B)(1)(c). The Court "may accept, reject or modify, in whole or in part, the findings or recommendations made by the Magistrate." *Id.* In order to preserve the right to appeal the Magistrate Judge's recommendation, a party must file objections to the Report and Recommendation within fourteen (14) days of service of the Report and Recommendation. Fed. R. Civ. P 72(b)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Secretary of Health and Human Servs.*, 932 F2d 505 (6th Cir.

1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). As Plaintiffs filed the complaint *pro se*, the Court will interpret their pleadings liberally. *Hughes v. Rowe*, 499 U.S. 5, 9 (1980); *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972).

After review of the Magistrate Judge's Report and Recommendation, the Court finds that his findings and conclusions are correct. Liberally construing Plaintiffs' Complaint, the Court agrees with the Magistrate Judge that Defendant Oakland County Probation Department must be dismissed because it is not a legal entity subject to suit. The action must be dismissed with prejudice.

Accordingly,

IT IS ORDERED that the Magistrate Judge Mark A. Randon's Report and Recommendation [Doc. # 15, 10/5/2012] is ACCEPTED and ADOPTED as this Court's findings of facts and conclusions of law.

IT IS FURTHER ORDERED that the Motion to Dismiss filed by Defendant [Doc. # 6, 4/23/2012] is GRANTED.

IT IS FURTHER ORDERED that Defendant Oakland County Probation Department DISMISSED and this action is DISMISSED with prejudice.

IT IS FURTHER ORDERED and certified that any appeal from this decision would be frivolous and not taken in good faith. An appeal may not be taken *in forma pauperis* under 28 U.S.C. § 1915(a)(3); *Coppedge v. United States*, 369 U.S. 438, 445 (1962), *McGore v. Wigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

Dated: October 31, 2012

S/Denise Page Hood
Denise Page Hood
United States District Judge

**12-11091 Carter, et al v. Oakland County Probation Department
Order Accepting Report & Recommendation, etc.**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 31, 2012, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry
Case Manager